

**TESTIMONY OF LINDSAY G. ROBERTSON, SPECIAL COUNSEL ON INDIAN
AFFAIRS TO GOVERNOR FRANK KEATING OF OKLAHOMA, IN SUPPORT OF HR
2880, "THE FIVE NATIONS INDIAN LAND REFORM ACT" BEFORE THE SENATE
COMMITTEE ON INDIAN AFFAIRS, SEPTEMBER 18, 2002**

Chairman Inouye and Vice-Chairman Campbell:

Thank you, Mr. Chairman, Vice-Chairman Campbell and other members of the Committee for the opportunity to testify on behalf of Governor Frank Keating in support of HR 2880, the Five Nations Indian Land Reform Act.

The Five Nations -- the Muscogee (Creek), Cherokee, Chickasaw, Choctaw and Seminole Nations -- have long constituted an important cultural and economic presence in Oklahoma. Through the execution of numerous compacts, the State of Oklahoma has in recent years had a constructive and mutually beneficial sovereign-to-sovereign relationship with each of these Nations. This relationship has been complicated somewhat by the State's exercising of federal trust functions in areas addressed by HR 2880. Specifically, due to the unique federal legislative treatment of Five Nations' allotments, state courts have been required to act as federal instrumentalities for the past ninety-six years in implementing federal laws governing the disposition of these lands, including laws governing approval of sales, leases and probates of restricted property. In addition to complicating the relationship between the State and the Nations, this has placed an unusual burden on the Oklahoma judiciary.

The Governor has observed the development of the Five Nations Land Reform Act over the past several years. It was most recently introduced earlier this year in the United States House of Representatives as HR 2880 and a substitute version was approved by the House on June 11, 2002, after final concerns by various interest groups were addressed. As currently written, this legislation will have a significant positive impact not only on individual Indian owners of Five Nations allotments, but also on non-Indian owners of former restricted property. It will also have a positive impact on the courts of the State of Oklahoma. Although HR 2880 will require state courts to continue to exercise limited jurisdiction over partitions and quiet title actions involving restricted lands, it will return most federal trust functions back to the federal government. It will establish an efficient process for the approval of sales and leases of restricted property through a federal administrative process. It will also facilitate the probate of estates containing restricted property by placing that function with the federal government, thus eliminating the costs necessarily associated with state court probate actions and enabling Indian heirs to secure probates at no cost through use of federal administrative law judges.

HR 2880 also contains a number of provisions that are designed to protect vested property rights of third parties and establishes a more streamlined process for curing of title defects caused by complicated federal law requirements affecting property that was formerly restricted. Thus, it will be beneficial to both Indian and non-Indian citizens in Oklahoma. Although HR 2880 will slow the removal of lands from restricted status, it will not increase the restricted land base and will not have any negative impact on state and local tax revenues.

Governor Keating believes that Oklahoma citizens and interest groups have been afforded the opportunity to participate in the bill's evolution during the past few years. These groups have included the Probate Committee and the Real Property Section of the Oklahoma Bar Association and the Indian Nations themselves. Indeed, the Nations have taken an active part in the drafting of the bill. He supports the enactment of HR 2880 into law, and he looks forward to seeing the positive impact that this important legislation will have on the citizens of Oklahoma.